

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:	)	CASE NO. BK09-42120-TLS
	)	
LARRY L. & LYNNE E. BARLOW,	)	4:09CV3267
	)	
Debtor(s).	)	CH. 11

SUPPLEMENTAL REPORT & RECOMMENDATION

The purpose of this report and recommendation is to supplement the one filed on December 23, 2009, with information about what has transpired in the bankruptcy case in the interim and the effect it might have on the district court's consideration of the debtors' motion for withdrawal of the reference.

The motion for withdrawal of the reference stemmed from a ruling adverse to the debtors on creditors' motions for relief from the automatic stay. After a trial, the motions were granted under 11 U.S.C. § 362(d)(2) upon the court's finding, first, that the debtors have no equity in the collateral because the debts against the assets exceed their value, and second, that the property at issue is not necessary to an effective reorganization because the debtors were unable to demonstrate they could generate sufficient income to pay operating costs and secured debt.

The debtors then filed this motion for withdrawal of the reference, in an effort to have the district court stay the execution of the order while it reviews the matter. I recommended in the first report and recommendation (Fil. #221 in Case No. BK09-42120-TLS; Fil. #1 in Case No. 4:09CV3267) that the debtors' motion be denied.

Since that time, the debtors' motions to stay the proceedings and to reconsider the order granting relief from the stay have been denied, permitting the creditors to move forward with efforts to collect on their collateral. In addition, lead counsel for the debtors has requested permission to withdraw from the case, and the debtors have moved to convert the case to one under Chapter 7, which will result in the liquidation of the bankruptcy estate's assets.

The conversion of the case will likely render the debtors' motion for withdrawal of the reference moot; therefore, I respectfully recommend to the United States District Court for the District of Nebraska that the debtors' motion for withdrawal of the reference be denied.

The Clerk of the Bankruptcy Court shall process this recommendation pursuant to the local court rules.

DATED: February 3, 2010

RESPECTFULLY SUBMITTED,

/s/ Thomas L. Saladino  
Chief Judge

Notice given by the Court to:

William L. Needler  
Richard P. Garden, Jr.  
David Copple

Richard Lee Johnson  
Kathleen Rockey  
U.S. Trustee